

§ 15.211

settled, the amount of recovery shall be applied to the claim as follows:

(1) When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this part, no compensation is allowable under this subpart.

(2) When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss.

(3) For this purpose, the claimant's total loss is to be determined without regard to the maximum payment limitations set forth in §15.204. However, if the resulting amount, after making this deduction exceeds the maximum payment limitations, the claimant shall be allowed only the maximum amount set forth in §15.204.

§ 15.211 How is a claim under this subpart processed?

(a) The Counsel for Claims and Compensation, the Regional Solicitors, and the Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this subpart that arise within their respective jurisdictions, except that any claim for an amount in excess of \$25,000 shall fall within the exclusive jurisdiction of the Counsel for Claims and Compensation.

(b) Any writing received by the Office of the Solicitor within the time limits set forth in §15.203 will be accepted and considered a claim under the MPCECA if it constitutes a demand for compensation from the Department. A sample claim, located on the Department's Office of the Solicitor, Federal Employees' and Energy Workers' Compensation Division Web site at www.dol.gov, is provided for convenience of filing. The SF-95 form used to file a claim under the FTCA is not an appropriate form for a claim under the MPCECA claim.

(c) A demand is not required to be for a specific sum of money.

(d) The determination upon the claim shall be provided to the claimant in writing by the deciding official.

29 CFR Subtitle A (7-1-13 Edition)

§ 15.212 How is the amount of the award under this subpart calculated?

(a) The amount allowable for damage to or loss of any item of property may not exceed the lowest of:

(1) The amount requested by the claimant for the item as a result of its loss, damage or the cost of its repair;

(2) The actual or estimated cost of its repair; or

(3) The actual value at the time of its loss, damage, or destruction. The actual value is determined by using the current replacement cost or the depreciated value of the item since its acquisition, whichever is lower, less any salvage value of the item in question.

(b) Depreciation in value is determined by considering the type of article involved, its cost, its condition when damaged or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(c) Current replacement cost and depreciated value are determined by use of publicly available adjustment rates or through use of other reasonable methods at the discretion of the official authorized to issue a determination upon the claim in question.

(d) Replacement of lost or damaged property may be made in kind wherever appropriate.

(e) At the discretion of the official authorized to issue the determination upon the claim in question, a claimant may be required to turn over an item alleged to have been damaged beyond economical repair to the United States, in which case no deduction for salvage value will be made in the calculation of actual value.

(f) Notwithstanding any other provisions of law, settlement of claims under the MPCECA is final and conclusive.

§ 15.213 Are there limits to representatives' fees for claims under this subpart?

Yes. No more than 10 percent of the amount in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim. 31 U.S.C. 3721(i).